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September 9, 2011

Christopher Hughey, Esq.
General Counsel's Office
999 E Street, NW
Washington, DC 20463

**Re: Supplemental Response of Crossroads Grassroots Policy Strategies in MUR
6396**

Dear Mr. Hughey,

This Supplemental Response is submitted by the undersigned counsel on behalf of Crossroads Grassroots Policy Strategies (Crossroads GPS), in response to the Complaint designated as Matter Under Review 6396. Subsequent to the submission of our Initial Response on December 22, 2010, Crossroads GPS has engaged in substantial activity that we believe is relevant to the resolution of this MUR. Specifically, Crossroads GPS has devoted substantial resources to a variety of issue advocacy, watchdog and accountability projects during January – August 2011 that further demonstrates that the “major purpose” of Crossroads GPS is not Federal campaign activity, but in fact the consistent advancement of legislative and policy that promotes fiscal discipline and economic growth.

As previously noted, Crossroads GPS's most recently completed fiscal year ran from June 1, 2010 to May 31, 2011. Our Initial Response detailed spending activity through December 15, 2010. We continue to believe that Crossroads GPS is, and always has been, in full compliance with the Federal Election Campaign Act (FECA) and all applicable FEC regulations, and has never qualified as a political committee. Activities undertaken by Crossroads GPS from December 2010 – August 2011 underscore and reinforce this fact.

Crossroads GPS has not engaged in any express advocacy during 2011. Rather, throughout 2011, Crossroads GPS has worked to influence the policy debate in Washington focusing on the same set of issues that it worked to advance through its advocacy activities in 2010. This does not represent a change in direction for the organization, but an unbroken continuum of policy advocacy aimed at a consistent set of legislative and regulatory outcomes.

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Crossroads GPS has expended considerable resources from December 2010 to the present on grassroots issue advocacy and “watchdog” and accountability projects.

I. Grassroots Issue Advocacy

A. Post-Election, Lame Duck Session Advocacy

During the lame duck session held in December 2010, Crossroads GPS distributed radio advertisements urging listeners in 12 House districts to call their Representative and urge him or her to vote against efforts to allow some or all of the so-called “Bush tax cuts” to expire at the end of 2010. The ads urged: “Call Congressman/woman [name] at [phone number]. The him/her to stand up to Pelosi and demand a vote. It’s time to cut spending, NOT raise taxes.” See Exhibit 1.

B. Print Advertising

On January 18, 2011, Crossroads GPS ran print advertisements in several Capitol Hill-based newspapers, including CQ/Roll Call, The Hill, and Politico, urging the repeal of The Patient Protection and Affordable Care Act, and the adoption of true bipartisan health care reform. See Exhibit 2. This advertisement contained no language advocating the election or defeat of any clearly identified candidate for federal office, and is unquestionably a genuine grassroots issue advertisement.

C. State of the Union

On January 25, just before President Obama delivered his State of the Union address, Crossroads GPS issued a “Prebuttal on Competitiveness,” in which Crossroads GPS “urge[d] viewers to compare the President’s rhetoric with his anticompetitive regulatory agenda, and urge him to start the process by repealing the new rules and regulations that started on his watch.” See Exhibit 3.¹ This document focused on various legislative and regulatory burdens that “if reversed, would immediately foster more competition and a better environment for both small and large businesses.” *Id.*

D. Radio Advertising In Support of Spending Cuts

In late February, Crossroads GPS launched a series of radio advertisements in 22 House districts that urged listeners to call their Member of Congress regarding that Member’s recent vote on the budget. Crossroads GPS President Steven Law said of the ads: “One of our top

¹ Exhibit 3 is also available at <http://crossroadsgps.org/news/crossroads-gps-prebuttal-competitiveness>.

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priorities this year is to use educational spots to frame the issue debate for congressional action on reining in spending, blocking job-killing regulations and dismantling ObamaCare, and we identified the President's Day recess as a key inflection point in the national debate." See Exhibit 4.²

One version of the advertisement consisted of the following language:

"Government is not the solution to our problem. Government is the problem." It's been 30 years since President Reagan spoke those words. Their truth hits home today. The American dream is being suffocated by the explosive growth of government under President Obama and Nancy Pelosi. In 2010, Americans told Washington, "Stop the spending, and put America back to work." But President Obama proposed a budget that increases taxes, spending, and debt, and last week, Members of Congress like [name] voted to continue the failed spending policies of Pelosi and Obama. They just don't get it. Call Congressman [name] at [phone number]. Tell him that voting against budget cuts doesn't cut it. Tell him to stop the spending now, to make America great again. Paid for by Crossroads GPS.

A second version of the advertisement consisted of this language:

"Government is not the solution to our problem. Government is the problem." It's been 30 years since President Reagan spoke those words. Their truth hits home today. The American dream is being suffocated by the explosive growth of government under President Obama and Nancy Pelosi. In 2010, Americans told Washington, "Stop the spending, and put us back to work." Last week responsible Republicans said "no" to President Obama's latest budget of more taxes, spending, and debt. They began the hard work of reining in runaway government spending. Call Congressman [name] at [phone number]. Thank him for voting for budget cuts to set our economy free. Tell Congressman [name] to keep making the budget choices that will make America great again. Paid for by Crossroads GPS.

In late July, Crossroads GPS aired a radio advertisement in Utah supporting Senator Hatch's efforts to reducing spending by dismantling The Patient Protection and Affordable Health Care Act, and urging him to remain committed to ending the individual mandate. The script of this advertisement, titled "No Way," is attached as Exhibit 5.³

E. Union-Related Advocacy

² Exhibit 4 is also available at <http://crossroadsgps.org/news/crossroads-gps-launches-new-issue-ads-22-us-house-districts-nationwide>.

³ "No Way" can be heard at <http://www.youtube.com/watch?v=cwIQWah7eTg&feature=related>.

On March 9, 2011, Crossroads GPS launched a nationwide television advertisement urging President Obama "to stop siding with big government union bosses and support government union reform." This advertisement ("The System") ran on national cable channels for one week. The ad script is attached as Exhibit 6.⁴ "The System" urges viewers to tell President Obama that "you've had enough" and to "call on him to support government union reform."

On May 19, 2011, Crossroads GPS launched a web video focused on the labor unions that received waivers from the Obamacare mandate." The advertisement ("Waivers") asks viewers to call the White House to inquire about the more than 185 waivers from "Obamacare" that had been issued to labor unions at the time and to ask the President to "come clean" on the issue. The ad script is attached as Exhibit 7.⁵

The Crossroads GPS website also includes a "Government Union Reform Action Center" section, which provides more information on government union reform issues, including the proposed federal Public Employee Pension Transparency Act and the New Jersey "executive order prohibiting public-employee unions from engaging in political activity aimed at electing politicians with whom they can bargain collectively." See <http://crossroadsgps.org/keyissues>. The website also provides ways for visitors to contact their elected representatives to express their concerns.

F. Jobs, Economy, and Debt Initiative

On June 24, Crossroads GPS launched its biggest advocacy program of the year: an issue advocacy initiative "to frame the national debate on jobs, the economy and the national debt in anticipation of congressional action on these issues." See Exhibit 8.⁶ The purpose of this initiative was to "move the center of debate toward cutting spending and the national debt without raising taxes, and pursuing pro-growth policies that will promote job creation." *Id.*

The "Jobs, Economy, and Debt" initiative began with a national television advertisement focusing on "the Obama Administration's failure to improve the economy with its \$830 billion stimulus legislation and other policies" and to urge citizens to weigh in against President

⁴ "The System" can be viewed at <http://www.youtube.com/watch?v=QaSnDrZNEg8>.

⁵ "Waivers" can be viewed at <http://www.youtube.com/watch?v=UE7X8vTG6Qo>.

⁶ Exhibit 8 is also available at <http://crossroadsgps.org/news/crossroads-gps-launches-20-million-national-television-initiative-frame-debate-jobs-economy-def>.

Obama's request for a "clean" debt limit extension *Id.* This first advertisement was called "Shovel Ready," and the script is attached as Exhibit 9.⁷

"Shovel Ready" was followed by three versions of the advertisement "Wake Up" on July 8, 2011, including one in Spanish. Scripts of the three versions of the advertisement are attached as Exhibit 10-A, Exhibit 10-B, and Exhibit 10-C.⁸ (The Spanish language ad, titled "Despertarse," was a translation of the 60-second version of "Wake Up."⁹) The "Wake Up" ads called on viewers to take action in opposition to proposals for more spending and taxes in connection with the debt limit extension. The ads directed viewers to the website www.NoMoreBlankChecks.com, which provided more information on the issue and provides visitors with all the advocacy tools needed to contact their representatives in the U.S. House and Senate.

While the "Wake Up" ads ran nationally, Crossroads GPS ran additional ads in five states, and urged viewers to contact one of their Senators with the message, "No more reckless spending, no more new taxes, and no more blank checks." These ads contrasted the five Senators' claims of fiscal austerity with their recent votes. Scripts of the five "Change" advertisements are attached as Exhibit 11.¹⁰ As noted in a release, "[t]he new spots are part of a summer-long, \$20 million effort by Crossroads GPS to urge decisive action by Congress to cut spending and the national debt and start rebuilding the nation's economy." See Exhibit 12.¹¹

The final phase of the "Jobs, Economy, and Debt" initiative was launched on July 18, 2011, and focused on 10 members of the House of Representatives deemed susceptible to

⁷ "Shovel Ready" may be viewed at <http://www.youtube.com/user/CrossroadsGPSChannel#p/u/11/sVVSbnumO-s>.

⁸ The two versions of "Wake Up" can be viewed at <http://www.youtube.com/watch?v=ESAszBVMnC4> and <http://www.youtube.com/watch?v=U50Rmitaxzo>.

⁹ "Despertarse" can be viewed at <http://www.youtube.com/user/CrossroadsGPSChannel#p/u/11/sVVSbnumO-s>.

¹⁰ The "Change" ads may be viewed at the Crossroads GPS YouTube channel (<http://www.youtube.com/user/CrossroadsGPSChannel#p/u>). Direct links appear below:

1. <http://www.youtube.com/user/CrossroadsGPSChannel#p/u/9/lbFpTaD85s>
2. <http://www.youtube.com/user/CrossroadsGPSChannel#p/u/8/n8ZjWzpm-aw>
3. <http://www.youtube.com/user/CrossroadsGPSChannel#p/u/7/EuhG2yZkkEw>
4. <http://www.youtube.com/user/CrossroadsGPSChannel#p/u/6/TVVs9Z2Z3qY>
5. <http://www.youtube.com/user/CrossroadsGPSChannel#p/u/5/9IV2WFurWV8>

¹¹ Exhibit 12 is also available at <http://crossroadsgps.org/news/crossroads-gps-launches-7-million-second-phase-advocacy-campaign-government-spending-and-debt>.

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supporting debt reduction and pro-growth economic policies if urged by their constituents. "The ads encourage constituents to visit the Crossroads GPS www.NoMoreBlankChecks.com website to contact their Representatives and say no to more taxes, spending and debt." See Exhibit 13.¹² Scripts of the 10 versions of "Watch" are attached as Exhibit 14.¹³

On July 19, Crossroads GPS formally endorsed H.R. 2560, the Cut, Cap, and Balance Act of 2011, finding it to be "a way to bring fiscal responsibility back to Washington." See Exhibit 15.¹⁴ Crossroads GPS subsequently "announced its support for House Speaker John Boehner's debt reduction plan." See Exhibit 16.¹⁵ Crossroads GPS noted that "[t]his support comes after the group has spent millions of dollars on a televised issue advocacy campaign framing the national debate on jobs, economy and debt." *Id.*

II. Watchdog and Accountability Projects

On February 17, 2011, Crossroads GPS submitted a Freedom of Information Act request to the Department of Transportation seeking "any and all cost-benefit analyses created by or on behalf of the Federal Railroad Administration related to the construction of a national high-speed and intercity passenger rail network...." See Exhibit 17.¹⁶ This potentially enormous expense was included in President Obama's FY2012 budget, and Department of Transportation officials

¹² Exhibit 13 is also available at <http://crossroadsgps.org/news/crossroads-gps-targets-10-house-members-advocacy-campaign-government-spending-and-debt>.

¹³ The "Watch" ads may be viewed at the Crossroads GPS YouTube channel (<http://www.youtube.com/user/CrossroadsGPSChannel#p/u>). Direct links below:

1. <http://www.youtube.com/user/CrossroadsGPSChannel#p/u/20/EyiXBsxWlG0>
2. <http://www.youtube.com/user/CrossroadsGPSChannel#p/u/19/41alb4LOYKQ>
3. <http://www.youtube.com/user/CrossroadsGPSChannel#p/u/18/vUBalqeE30c>
4. <http://www.youtube.com/user/CrossroadsGPSChannel#p/u/17/1Txgleun7zc>
5. <http://www.youtube.com/user/CrossroadsGPSChannel#p/u/16/5D8t31wR22M>
6. <http://www.youtube.com/user/CrossroadsGPSChannel#p/u/15/Ot-oIoZByXc>
7. <http://www.youtube.com/user/CrossroadsGPSChannel#p/u/14/zsK93JOkMI8>
8. <http://www.youtube.com/user/CrossroadsGPSChannel#p/u/13/XYcLGNpMyhw>
9. <http://www.youtube.com/user/CrossroadsGPSChannel#p/u/12/J6oPeiZsS8M>
10. <http://www.youtube.com/user/CrossroadsGPSChannel#p/u/21/baSvymGpP9w>

¹⁴ Exhibit 15 is also available at <http://crossroadsgps.org/news/crossroads-gps-endorses-hr-2560-cut-cap-and-balance-act-2011>.

¹⁵ Exhibit 16 is also available at <http://crossroadsgps.org/news/crossroads-gps-announces-support-speaker-boehner%E2%80%99s-debt-reduction-plan>.

¹⁶ Exhibit 17 is also available at <http://crossroadsgps.org/news/foia-letter-high-speed-rail-costbenefit-analyses>.

referenced, and subsequently confirmed the existence of, cost-benefit analyses that were not publicly available. On April 27, Crossroads GPS was able to report that the response it received to its FOIA request indicated that the Department of Transportation had not conducted any cost-benefit analyses for this budget proposal. See Exhibit 18.¹⁷

On March 23, 2011, Crossroads GPS launched a new project called "Wikicountability." This project, which is located at www.wikicountability.org:

is designed to crowd-source information gleaned from Freedom of Information Act (FOIA) requests and other public documents by organizations, individuals and journalists. The wiki site will facilitate efficient sharing of public information about the Obama Administration, as well as spotlight violations of FOIA by the Obama Administration.

The new initiative is designed to make federal departments and agencies more accountable to the public. Groups and individuals will be able to upload their own FOIA requests and responses to the website, creating a national clearinghouse for data concerning the Obama Administration. Thousands of pages of information from the Departments of Labor and HHS have already been uploaded to the site, and Crossroads is encouraging other groups and individuals to upload their own FOIA information to the site as well.

See Exhibit 19.¹⁸ As of August 15, 2011, the Wikicountability website had accumulated 788 pages of FOIA documents, totaling 522 uploads, and representing 65 different FOIA requests.

Also on March 23, 2010, GPS filed a lawsuit against the U.S. Department of Health and Human Services to force the release of information, requested under the Freedom of Information Act, concerning Obamacare waiver requests. See Complaint attached as Exhibit 20. Per the Complaint, "Crossroads GPS submitted its FOIA request to HHS on January 7, 2011, and HHS acknowledged its receipt of the request on January 11, 2011. After repeated attempts by letter, phone, email and fax to generate action on the request, no action has been taken, despite the 20 day statutory limit on fulfilling FOIA requests." See Exhibit 21.¹⁹ As Crossroads GPS noted at the time, "As of March 6, more than 1,000 waivers have been given to organizations granting a

¹⁷ Exhibit 18 is also available at <http://crossroadsgps.org/news/wikicountability-news-foia-reveals-obama-administration-failed-prepare-cost-benefit-analyses-53>.

¹⁸ Exhibit 19 is also available at <http://crossroadsgps.org/news/crossroads-gps-launches-new-online-platform-wikicountabilityorg-crowd-source-obama-administrati>.

¹⁹ Exhibit 21 is also available at <http://crossroadsgps.org/news/crossroads-gps-sues-obama-administration-over-failure-release-obamacare-waiver-documents>.

one-year exemption from Obamacare coverage requirements. Dozens of other waiver requests have been denied, but without the government adequately disclosing the reasoning or process behind the waiver process. Large numbers of waivers have been granted by HHS to labor unions, many of which strongly supported passage of Obamacare and have made significant political contributions to the President." *Id.* This lawsuit is still pending.

III. Conclusion

For the reasons stated in our initial December 22, 2010 submission, and as supplemented with the information set forth above, we urge the Commission to dismiss this Complaint.

Sincerely,

A handwritten signature in black ink, appearing to read 'T. Josefiak', with a stylized flourish extending to the right.

Thomas J. Josefiak

Michael Bayes

Counsel to Crossroads GPS

Enclosures

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